

MEETING MINUTES, PLANNING COMMISSION, JULY 14, 2008

Present: Phil Tinkle, Brent Corey, Bettina Settles, Trent Pohlar, Duane O'Neal, Alford Kessinger, Carmen Madsen, Tom McClain, Mark Richards, City Engineer; Ed Ferguson, Planning Director; Shawna Koons-Davis, City Attorney; Janice Nix, Recording Secretary

The meeting was called to order at 7:00 p.m. by Trent Pohlar, President.

PREVIOUS MINUTES

June 23rd – Kessinger moved to approve the minutes as mailed, seconded by Madsen. Vote for **approval** was unanimous, 8-0. **Motion carried.**

OLD BUSINESS

Docket PC2008-030 – Change in Commitments – Rocklane Ridge – 2606 E. Main St. – Request to amend previously approved commitments – Rocklane Properties, LLC, applicant; Joe Calderon, Attorney, representing.

Joe Calderon, Attorney; David Baird; and members of audience came forward and were sworn.

The commission inquired if the previously continued re-zoning petition (PC2008-017) had been withdrawn. Attorney Calderon replied that if the change in commitments is approved, the re-zoning petition will be withdrawn. Booklets were distributed for the Commission's review.

Commissioner O'Neal arrived at this time.

Attorney Calderon gave background on the reasoning behind the request for change in commitments. There have been changes to original circumstances in developing the property. The original plan has changed due to the withdraw of the original developer. Rocklane Properties would now like to have the flexibility to have a portion of the remainder of the project be developed as multi-family if a developer is interested in doing so. They are proposing to commit to no more than 30 acres of the remainder of the project being developed as multi-family. The changed proposed in the commitments will only apply to the C-1 Commercially zoned portion of the project. Calderon reviewed the proposed commitments contained in the booklets distributed. The petitioner is willing to commit to more restrictions for proposed uses but would like relief from the originally approved site concept plan that was included when the original commitments were approved. The proposed use restrictions include those in the PUD Commercial area directly across the street in University Park.

Calderon stated that they have met with adjacent property owners. He feels that for the most part they are in agreement with what they have proposed, however, they have indicated they would like to have a site concept plan included with the commitments. His client is not prepared to do so at this time.

The floor was opened for comments from remonstrators.

Gary Miller, representing the East of 65 Property Owners Association, came forward. He stated the association is opposed to change in commitments without having a site concept plan available for review. The commitments do not include a limit on the number of units that would be allowed in a multi-family development. Planning Director Ed Ferguson stated that in C-1 Commercial the number of units would be the same as R-4 Multi-Family zoning, which is a maximum of 20 units per acre. Tim Benell, 656 N. Combs Rd., Grwd, came forward. He state he agreed with Miller's comments. He also expressed concern about increased traffic on Combs Rd.

Calderon came forward for rebuttal. He stated that regarding Combs Rd., a commitment is included in the changed commitments that r-o-way will be given to allow improvements to Combs Rd. He pointed out that the Comprehensive Master Plan for this property calls for it to be developed as Industrial. They are proposing commitments to C-1 Commercial zoning. David Baird, Rocklane Properties, came forward and introduced Larry Green, resident in the Commons @ University Park, 79 Windchime Circle, Grwd. Mr. Green spoke in favor of the change in commitments. He is one of the signatures on the petition in favor of the change in

commitments which was presented earlier to Commission members by Attorney Calderon. Green stated he is not in favor of having industrial across the street from him and feels the proposed commitments for C-1 zoning would be much better than having industry develop there.

Miller then came forward for rebuttal. He stated they would like more specific commitments.

Pohlar stated that the petitioner has already addressed the r-o-way for road improvements. The final plan has not been determined by the City.

Tinkle stated he is against changing commitments without having a proposed site concept plan presented to review.

Attorney Calderon asked that the re-zoning petition (PC2008-017) be withdrawn at this time. Tinkle moved to allow PC2008-017 to be withdrawn at this time, seconded by Madsen. Vote for approval was 8 for, 1 abstention (O'Neal). Motion carried.

After discussion Tinkle moved to continue PC2008-031 to August 11, 2008, to allow for the petitioner to gather information and present to the Commission a proposed density, seconded by Settles. Vote for approval for the continuance was 8 for, 1 abstention (O'Neal). Motion carried.

Docket PC2008-034 – Re-zoning Petition – Sandstone Apts. – located at 1039 N. Paz Dr. – request to re-zone from R-3 Multi-family Residential to R-4 Multi-Family Residential – Sandstone Apts., applicant; Van Valer Law Firm, representing.

Joe Van Valer, Attorney; Paul Maurer, Maurer Surveying; and members of the audience were sworn.

Attorney Van Valer and Paul Maurer presented the project. The petitioner would like to re-zone the existing apartments as well as the vacant ground adjacent to the existing apartments to R-4 multi-family so that the entire project has the same zoning. The proposed concept plan was presented for the Commission's review. All new buildings will be 3 stories in height.

Attorney Van Valer addressed the criteria as follows:

1. **Criteria:** This request complies with the Comprehensive Plan in the following way(s)
Answer: The Comprehensive Plan, at Figure 7, identifies the land as high density residential within the established city. Table 1 states as a goal of the established city to, "reinforce and accommodate compatible uses." The proposed development is planned to be compatible with the existing uses and therefore in compliance with the Comprehensive Plan. The Comprehensive Plan, at page 12, further states as a residential developmental policy to, "allow more land to be used for higher densities of development (apartments)." The proposal, which consists of approximately 16 units per acre, complies with the density range provided for in the CP, which ranges from 8-20 units per acre. The approval complies with the CP because the proposal is consistent with the above quoted goals and objectives. The plan offers compatibility and connectivity with the surrounding area and provides a variety of multi-family housing options.
2. **Criteria:** This request complies with the Current conditions and the character of current structures and uses in each district in the following ways:
Answer: The proposed R-4 zoning classification fits within the current conditions and character of the area. Greenwood Trails Subdivision is located immediately South of the real estate and carries an R-4 zoning classification. Phase I of Sandstone Apartments 1, is existing multi family and is currently zoned R-3 (which predates the ordinance which amended the R-3 District). To the immediate North is a couple dozen R-2A lots and between those lots and County Line Road are a few R-2 lots (at least one of which is vacant) that appear to be a part of a transitional area which is moving toward commercial use. To the West we find a railroad track buffering an R-2 District. In the East we find more R-2A moving toward Commercial and Industrial Districts. This proposal acts as a compatible addition to the existing area.

3. **Criteria:** The request is for the most desirable use for which the land in this district is adapted
Answer: Given the subject property's geographic location and its surroundings, being situated between two multi-family uses, the most desirable use for the property is a multi-family development. The preceding sentence is bolstered by revisiting the PC from Criteria 1 above: The Comprehensive Plan, at Figure 7, identifies the land as high density residential within the established city. Also: The Comprehensive Plan, at page 12, further states as a residential developmental policy to, "allow more land to be used for higher densities of development (apartments)." The R-4 zoning classifications will allow Petitioner to offer a variety of housing alternatives, including one, two, and three bedroom units.
4. **Criteria:** The request will not negatively affect the property values throughout the Jurisdiction because
Answer: The addition of the proposal, will be harmonious to the area. The additional buildings will offer a reputable product and complimentary design, which will not negatively affect the area.
5. **Criteria:** This request is considered responsible development and growth because
Answer: Approval of this request will result in responsible development and growth because the proposed use is compatible with the area, complies with the comprehensive plan, and will offer a variety of housing options for the community.

The floor was then opened for remonstrators. James Despain, 151 Lewis Drive, Grwd, came forward. He asked that a fence be installed along the north, west and south sides of the development in order to help keep pedestrians from crossing over into his neighborhood. He also inquired about how many stories the new apartments would be. The new buildings will be 3 stories high.

Van Valer offered rebuttal. A landscape buffer will be required during site plan approval. A fence would require a zoning commitment. They are agreeable to that commitment.

Madsen inquired if the retention pond would be for wet or dry detention? It will be wet detention. Madsen asked that a fence be installed around the retention pond. City Engineer Richards suggested addressing the fencing around the pond at this time. Fire Chief Steve Dhondt came forward. He asked that if a fence is installed that there be a gate so that the pond would be accessible to the Fire Dept. Van Valer stated that the site plan presented is a concept plan and once the site development plan is designed, the retention pond may not be there. He asked that a fence be required only if it is wet detention.

The city attorney reviewed the statutory criteria to be considered by the Commission.

Madsen moved that the petition for a Zone Map Change for the rezoning of approximately 19 acres of land known as Sandstone Apartments generally located north of Greenwood Trails, east of the Railroad Tracks and west of Meridian Street, within the City of Greenwood, Johnson County, Indiana, from R-3 Residential – Multi-Family use to R-4 Residential – Multi-Family use, as set forth therein, receive a **favorable** recommendation from this Commission to the Greenwood Common Council and that the same be certified to the Greenwood Common Council the form presented, with the following commitments:

- (1) A six (6) foot tall fence shall be placed along the northern, western, and southern boundaries of the entire site (this can be in conjunction with neighbors fence so long as it is continuous).
- (2) If wet detention pond is installed it shall be fenced and have a pedestrian access gate. If dry detention is used a fence is not required.

seconded by Settles. Vote for **approval** was unanimous, 9-0. **Motion carried.**

NEW BUSINESS

Docket PC2008-031 – Primary Plat – Swails Subdivision – located at 825 E. Worthsville Rd. – request to divide a 3.53 acre parcel into 2 lots – Shandra Swails, applicant; Jason & Robin Close, owner; Northpointe Surveying, representing.

Donna Smithers, Northpointe Surveying, came forward and was sworn. Shandra Swails, applicant, was also sworn. Smithers presented the plat. The purpose of the platting is to allow the existing lot to be split into two lots. This has not been through Tech Committee yet, it is scheduled for this Wednesday. Smithers asked that this be approved subject to any recommendations the Tech Committee may have.

There were no remonstrators present. Ferguson explained that the timing of the Tech Committee review is due to the new process of using outside consultants to review plats and plans.

Tinkle moved to approve PC2008-031, subject to any recommendations that the Tech Committee has after their consideration on July 16, 2008, seconded by Settles. Vote for **approval** was unanimous, 9-0. **Motion carried.**

Waiver Request – Greenwood Christian Church (PC2008-016) – request waiver concerning installation of guardrail at entranceway – Weihe Engineers, representing.

Jamie Shinaman, Weihe Engineers, came forward. The waiver request is to allow the existing landscaping, as well as installation of additional landscaping, be allowed rather than requiring the installation of a guardrail around the detention pond along the north side of Worthville Road (750 North).

Fire Chief Steve Dhondt came forward. He stated that he and Mark Richards, City Engineer, have met with representatives for the church concerning this matter. He is agreeable to allowing the Church to do this. He stated he feels they are meeting the intent of the ordinance, which is to help prevent vehicles from possibly entering the pond from the roadway. He suggested that the request be approved with the stipulation that the City Engineer have the final determination of how many more trees need to be installed.

Tinkle moved to approve the waiver request as presented for PC2008-016, with the City Engineer's approval of final plant counts and locations, seconded by Settles. Vote for **approval** was unanimous, 9-0. **Motion carried.**

PUBLIC HEARING – UNSAFE BUILDINGS

Lowell Weber, Building Commissioner; Steve Dhondt, Fire Chief; and members of the audience were sworn.

615 Sunset Boulevard – photos were distributed by the Building Commissioner. This property was damaged due to fire. He is asking the Plan Commission to determine the building to be an unsafe building so that the property can be condemned at this time. He asked that they affirm an order to remove the building -

Charles Grahn, Attorney, came forward. He is the representative of the estate of this property. Sandy Springer is deceased. A lawsuit is pending against Allstate Insurance for payment of claim for the fire. He stated they are close to getting settlement from Allstate at this time.

O'Neal moved that 615 Sunset Boulevard be declared an unsafe building because

1. A portion of the building has been damaged by fire to such extent that the structural strength or stability thereof is materially less than it was before such fire, and less than the minimum requirements for new buildings of similar structure, purpose or location as established by the applicable Indiana State Building Code;
2. The building is manifestly unsafe for the purpose for which it is being used;
3. The building has been so damaged by fire so as to become dilapidated or deteriorated to the extent it has become (1) an attractive nuisance to children or (2) freely accessible to persons for the purpose of committing unlawful acts and

4. The building, used or intended to be used for dwelling purposes, because of dilapidation, decay, and damage is determined by the Building Commissioner to be unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

and that the Order requiring the Estate of Sandra Springer to act to remove the unsafe building that was issued by Building Commissioner Lowell Weber on July 3, 2008, be affirmed and that the Estate of Sandra Springer be ordered to remove said unsafe building no later than August 31, 2008, seconded by Tinkle. Vote for **approval** was unanimous, 9-0. **Motion carried.**

1223 Stradford Court – photos were distributed by the Building Commissioner. He again asked for an affirmation of the order to remove the building. This building has also been damaged by fire. This property has recently been cited into the BPWS. The mortgage company has hired a contractor to clean up around the exterior of the property (a dumpster was recently put there). Fire Chief Steve Dhondt came forward. He impressed upon the Commission that immediate action should be taken on this matter. It is a dangerous site that is deteriorating rapidly.

O'Neal moved that 1223 Stradford Court be declared an unsafe building because

1. A portion of the building has been damaged by fire to such extent that the structural strength or stability thereof is materially less than it was before such fire, and less than the minimum requirements for new buildings of similar structure, purpose or location as established by the applicable Indiana State Building Code;
2. The building is manifestly unsafe for the purpose for which it is being used;
3. The building has been so damaged by fire so as to become dilapidated or deteriorated to the extent it has become (1) an attractive nuisance to children or (2) freely accessible to persons for the purpose of committing unlawful acts and
4. The building, used or intended to be used for dwelling purposes, because of dilapidation, decay, and damage is determined by the Building Commissioner to be unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

and that the Order requiring the Jeffrey C. Duke, EMC Mortgage Group, and Bank of New York Trust, to act to remove the unsafe building that was issued by Building Commissioner Lowell Weber on July 3, 2008, be affirmed and that Jeffrey C. Duke, EMC Mortgage Group, and Bank of New York Trust be ordered to remove said unsafe building no later than July 31, 2008, seconded by Tinkle. Vote for **approval** was unanimous, 9-0. **Motion carried.**

ANNOUNCEMENTS/REPORTS

O'Neal moved to adjourn, seconded by Madsen. Meeting was adjourned at 9:35 p.m.

JANICE NIX
Recording Secretary

TRENT POHLAR
President